

EXHIBIT 4

STATE OF MICHIGAN
30th JUDICIAL CIRCUIT COURT (INGHAM)
CIVIL DIVISION

HUWAIDA ARRAF, JENNIFER KIRBY,
and MADELEINE TOCCO,

Plaintiffs,

v.

Case No. 24-711-CK

MICHIGAN DEMOCRATIC PARTY,
and LAVORA BARNES, Chair of the
Michigan Democratic Party,

and

JOCELYN BENSON, Michigan
Secretary of State,

Defendants.

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MOTION FOR TEMPORARY RESTRAINING ORDER
AND/OR PRELIMINARY INJUNCTION
BEFORE THE HON. JAMES S. JAMO, CIRCUIT JUDGE
Lansing, Michigan - September 6, 2024

APPEARANCES:

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1 preliminary injunction.

2 I am going to deny the emergency
3 relief, the injunction that has been requested
4 for a couple of very specific reasons.

5 One is -- and I think this is
6 ultimately fatal to the request to the
7 Plaintiffs' motion, and that is that there can
8 be no irreparable injury here for, again, a very
9 specific reason. I know the presentation has
10 been that if I don't grant this relief that
11 there would be a lost opportunity for Ms. Arraf
12 to get on the election ballot because the
13 Secretary of State will comply with the statute
14 and provide the notice to each of the counties.
15 The statute is MCL 168.648.

16 That is, I think, a misdirection of the
17 focus of irreparable injury. I don't think
18 there is any question that there would be -- and
19 I think, Mr. Akeel, you argued that there really
20 should be no issue as to irreparable injury. I
21 think that's correct if you are looking at the
22 opportunity for your client to get on the
23 ballot. I think that where the incorrect focus
24 is -- the focus is whether I can do anything
25 about it or not.

1 So the fact that if I grant the relief
2 you request, I could not stop the Secretary of
3 State from doing what she is obligated by
4 statute to do, I think leads to the inescapable
5 conclusion that for purposes of this
6 preliminarily injunction motion, regardless of
7 whatever the testimony is, there is no way to
8 show an irreparable injury by me not granting
9 the request to have the Michigan Democratic
10 Party do all these things that you are
11 requesting the Michigan Democratic Party to do.

12 In other words, the irreparable injury
13 is connected to whether the Secretary of State
14 provides the counties the notice required by
15 Michigan Compiled Law 168.648. Again, I have no
16 authority to stop that regardless of the weight
17 of the testimony and the document evidence that
18 you have provided and the arguments on behalf of
19 the plaintiffs regardless of what my conclusions
20 are about -- and what conclusions I may draw
21 from that testimony I heard today and the
22 presentation that has been made.

23 I think that point, in fact, was on
24 some level conceded in the argument made today
25 by saying, well, it may have influence on the

1 Secretary of State as to what she may do with
2 regard to completing her obligation under the
3 statute today or being on notice of some
4 irregularity in the nominating process within
5 the Democratic Party.

6 It may be that she takes notice of
7 that. She'll, of course, have to make her own
8 decision with regard to that.

9 But I do think, as I said a moment ago,
10 that if we look at the issue of what I can do
11 and whether or not there is irreparable injury
12 by not granting the injunctive relief apart from
13 stopping the Secretary of State of certifying or
14 providing the notice, I guess is technically the
15 language in the statute.

16 If we focus on granting the
17 preliminarily injunction as to what you are
18 asking me to order the Michigan Democratic Party
19 to do, that's not where the irreparable injury
20 focus needs to be. It has to be on whether or
21 not the Secretary of State could be stopped by
22 anything I do, and clearly the answer to that is
23 no. I don't think that was even largely
24 contested here today.

25 Also, I am not sufficiently

1 convinced -- at least to the level I believe I
2 need to be for purposes of granting injunctive
3 relief, I'm not sufficiently convinced that the
4 plaintiff can prevail on the merits.

5 When I put it in the context of the
6 only published authority -- appellate authority
7 that comes close to addressing this issue of the
8 court becoming involved in the intraparty
9 political party actions, and that is the case of
10 *American Independent Party of Michigan versus*
11 *the Secretary of State*, a case in the Michigan
12 Supreme Court, 397 Mich. 689, a 1976 case, which
13 cites from the U.S. Supreme Court among other
14 cases that are addressed by Michigan Supreme
15 Court in that particular case.

16 The requested relief in this motion
17 under parts A and B are that I order Defendant
18 MDP, by and through its officials including
19 Defendant Barnes, to conduct a full and
20 transparent investigation or audit of the
21 University of Michigan Regents vote-counting
22 process and/or a recount of the votes. And
23 that's subpart A of the prayer for relief. B is
24 ordering Defendant Michigan Democratic Party, by
25 and through its officials including Defendant

1 Barnes, to expedite Plaintiff Arraf's appeal.

2 As pointed out by Mr. Eldridge, it
3 appears that in the actual rules there is no
4 bylaw that creates a process for a transparent
5 investigation or an audit or a recount or to
6 expedite an appeal for that purpose -- for the
7 purposes requested by the plaintiff.

8 Now, I'm not saying those things
9 shouldn't happen. I'm not even saying that
10 Ms. Arraf is incorrect in saying, well, even
11 though it doesn't say recount, if you're going
12 to follow the bylaws as to how the vote is
13 tallied, there is implicit in that the ability
14 to review that or to have the information that
15 would allow someone to independently tally the
16 votes and look at whether something was done
17 correctly.

18 However, again, referring back to the
19 Supreme Court opinion -- Michigan Supreme Court
20 opinion in *American Independent Party*, that
21 request -- those two components of the prayer
22 for relief and the motion for preliminarily
23 injunction come very close to asking me to
24 intervene and impose on the party internal rules
25 that, according to the case that I just

1 mentioned, I would not be permitted to do, or at
2 least it's not clear from that case that a court
3 is permitted to do that.

4 That's not to exclude the possibility
5 of what Mr. Akeel has argued here as to whether
6 or not a court of jurisdiction could address, by
7 way of litigation, the issues of breach of
8 contract or some other violation or that a party
9 could seek declaratory relief in some form.

10 All I'm saying here with regard to my
11 ruling as to whether I'm convinced sufficiently
12 that the plaintiff could prevail on the merits
13 is that according to the *American Independent*
14 *Party of Michigan* case, absent either an
15 allegation of a statutory provision governing
16 nominations for elections or elections
17 themselves or a constitutional issue, that
18 political parties are left to make and follow
19 their own rules.

20 I understand the tremendous frustration
21 of Ms. Arraf, and I even understand the
22 sentiment and the argument by Mr. Akeel that
23 essentially there has to be some kind of remedy.
24 I get that that's the argument, but, again,
25 under the case law and with the concession that

STATE OF MICHIGAN)
) SS.
COUNTY OF INGHAM)

CERTIFICATE OF STENOGRAPHER

I, Kelli L. Werner, Certified Shorthand Reporter, do hereby certify that the foregoing 186 pages comprise an accurate, true, and complete transcript of the proceedings and testimony taken.

I further certify that this transcript of the stenographic record of the proceedings and testimony truly and correctly reflects the exhibits, if any, offered by the respective parties. WITNESS my hand this date, 9th day of September, 2024.



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